

# LEGAL RIGHTS OF PERSONS WITH DISABILITIES

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## ACCESS TO TELECOMMUNICATIONS FOR PEOPLE WITH DISABILITIES



**CALIFORNIA OFFICE OF THE ATTORNEY GENERAL**

**PUBLIC RIGHTS DIVISION**

CIVIL RIGHTS ENFORCEMENT SECTION | *DISABILITY RIGHTS BUREAU*



# TABLE OF CONTENTS

<b>ACCESS TO TELECOMMUNICATIONS FOR PEOPLE WITH DISABILITIES.....</b>	<b>2</b>
<b>I. FEDERAL LAW .....</b>	<b>2</b>
A. The FCC and Its Regulations.....	2
1. General Applicability .....	2
2. Broadcast Services .....	5
B. Section 508 of the Rehabilitation Act.....	6
<b>II. CALIFORNIA LAW .....</b>	<b>6</b>
A. Non-Emergency Telephone Systems .....	6
B. Emergency Telephone Services.....	6
<b>III. COMPLAINTS .....</b>	<b>7</b>

# ACCESS TO TELECOMMUNICATIONS FOR PEOPLE WITH DISABILITIES

This publication describes the state and federal laws that ensure that people with disabilities have equal access to telecommunications services. Telecommunications services are those services that allow people to communicate through cable, radio, television, satellite, or wire equipment and include a variety of services like telephone and text message services. This publication also describes an individual's options when they have concerns about the accessibility of a product or service.

This publication is provided for informational purposes only and is based on the law at the time of publication. Laws are subject to and regularly do change. The facts of each individual case may also result in differing applications of the law. Accordingly, the information in this publication must not be considered definitive, exhaustive, or legal advice for any purpose, and does not create an attorney-client relationship with the California Department of Justice. Individuals should also independently check for updates in the law that may be applicable in any given situation.

## I. FEDERAL LAW

In 1990, the United States Congress directed the Federal Communications Commission (FCC) to establish regulations that would ensure that people with disabilities are provided with accessible telecommunications services. (47 U.S.C. § 225(d).) Federal law has been updated several times since then as technology changes. And in 2010, the United States Congress passed the Twenty-First Century Communications and Video Accessibility Act (CVAA) into law. ([Twenty-First Century Communications and Video Accessibility Act of 2010 Pub.L. No. 111-260](#) (Oct. 8, 2010) 124 Stat. 2751.) The CVAA updates the Communications Act of 1934 and its amendments to increase the access of people with disabilities to modern communications.

The FCC regulations, further described below, are the most comprehensive rules regarding the accessibility of telecommunications.

### A. The FCC and Its Regulations

#### 1. General Applicability

##### a. Entities, Products, and Services Covered

The FCC's rules apply to any provider of telecommunications services, any manufacturer of telecommunications services, and any carrier of telecommunications services. (47 C.F.R. § 6.1(a)-(c).) The FCC rules further cover providers and manufacturers of Voice over Internet Protocol (VoIP) services. (47 C.F.R. § 6.1(d)-(e).)

##### b. Manufacturers, Carriers, and Service Providers

Manufacturers must ensure that equipment is designed, developed, and built so that the telecommunications functions of the equipment are "accessible to and usable by individuals with disabilities, if readily achievable." (47 C.F.R. § 6.5(a)(1).) Whenever accessibility is not readily achievable, "the manufacturer shall ensure that the equipment is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with

disabilities to achieve access, if readily achievable.” (47 C.F.R. § 6.5(a)(2).) Terms like accessible and readily achievable are defined in the next section.

Similarly, telecommunications service providers must ensure that their services are accessible to and usable by individuals with disabilities, if readily achievable. (47 C.F.R. § 6.5(b)(1).) Whenever accessibility is not readily achievable, the service provider must ensure that the service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if that is readily achievable. (47 C.F.R. § 6.5(b)(2).)

Telecommunications carriers must not install network features, functions, or capabilities that compromise accessibility. (47 C.F.R. § 6.5(c).)

### **c. Definitions**

“Accessible” has three meanings depending on context. (47 C.F.R. § 6.3(a).)

First, with respect to devices, accessible means that “[i]nput, control, and mechanical functions shall be locatable, identifiable, and operable” by people with a range of disabilities including, people with no vision, low vision, limited hearing, no hearing, limited or no color perception, limited manual dexterity, limited reach and/or strength, prosthetic devices, no speech, and/or “limited cognitive skills.” (47 C.F.R. § 6.3(a)(1).) To be accessible, a device must have at least one mode that allows for extended time to respond. (47 C.F.R. § 6.3(a)(1)(viii).)

Second, with respect to information and operations, accessible means that visual information is provided in at least one auditory form, moving text is provided in at least one static presentation, auditory information is provided in at least one visual mode (and a tactile mode where appropriate), auditory information is provided in at least one enhanced form (e.g. amplification), visual displays shall minimize flicker that might induce seizures, speaker-systems have a standard jack for headphones that cuts off the speaker(s) when used, hearing aid interference is reduced to the “lowest possible level,” and that audio devices couple with hearing aids when possible. (47 C.F.R. § 6.3(a)(2).)

Third, to be accessible, voice communication services must have either Teletype Device (TTY) capability or support real-time text communications. (47 C.F.R. § 6.3(a)(3).)

“Compatibility” means that devices and software work with peripheral devices and specialized customer premises equipment commonly used by individuals with disabilities to achieve accessibility to telecommunications services. (47 C.F.R. § 6.3(b).) Compatibility includes the requirements that information needed to operate a product (such as alerts, icons, and online help), are available in a standard electronic text format, connection points are available for external audio devices, and voice communication products that do not provide TTY functionality must provide a connection point to TTY using standard non-proprietary signals (unless provided over wireless Internet Protocol facilities). (Ibid.)

A “manufacturer” is any entity that makes or produces a telecommunications product. (47 C.F.R. § 6.3(f).)

“Readily achievable” means that the change is “easily accomplishable and able to be carried out without much difficulty or expense.” (47 C.F.R. § 6.3(h).) When looking to whether a change is readily achievable, the FCC considers: (1) the nature of the cost and action needed; (2) the overall financial resources of the manufacturer or service provider involved in the action including the impact otherwise of such action upon operations; (3) the size and resources of any parent entity; and (4) the type of operation or operations of the covered entity. (Ibid.)

“Telecommunications services” means “the offering of telecommunications for a fee” to the public, whether directly or indirectly. (47 C.F.R. § 6.3(k).) Telecommunications equipment includes all equipment, other than customer premises equipment, used by a carrier to provide telecommunications services and includes software and upgrades in addition to physical equipment. (47 C.F.R. § 6.3(j).)

“Usable” means that individuals with disabilities have access to the full functionality and documentation for the product that is provided to individuals without disabilities. (47 C.F.R. § 6.3(l).)

#### **d. Product and Service Design**

Manufacturers and service providers must evaluate the accessibility, usability, and compatibility of equipment and services. (47 C.F.R. § 6.7(a).) Manufacturers and service providers must do so “as early and consistently as possible” during the design and development process. (Ibid.) Manufacturers and service providers must also identify and address barriers to accessibility and usability as part of the product design and development process. (Ibid.)

In developing design processes, manufacturers and service providers must consider a number of factors: (1) where the market research is undertaken, and including people with disabilities in target populations of that research; (2) where design, testing, pilot demonstrations, and trials are conducted including the participation of people with disabilities; (3) working cooperatively with disability-related organizations; and (4) making “reasonable efforts” to validate unproven access solutions through testing. (47 C.F.R. § 6.7(b).)

#### **e. Information, Documentation, and Training**

Manufacturers and service providers must ensure access to information and documentation provided to customers, if readily achievable. (47 C.F.R. § 6.11(a).) “Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product.” (Ibid.) Manufacturers and service providers must include in their general product information the contact method for obtaining this accessibility information. (47 C.F.R. § 6.11(b).)

Additionally, manufacturers must take readily achievable steps including: “(1) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge; (2) Providing end-user product documentation in alternate formats or alternate modes upon request at no additional charge; and (3) Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge.” (47 C.F.R. § 6.11(a)(1)-(3).)

In developing training programs, manufacturers and service providers must consider: “(1) Accessibility requirements of individuals with disabilities; (2) Means of communicating with individuals with disabilities; (3) Commonly used adaptive technology used with the manufacturer’s products; (4) Designing for accessibility; and (5) Solutions for accessibility and compatibility.” (47 C.F.R. § 6.11(c).)

## **2. Broadcast Services**

### **a. Emergency Information**

Television stations must usually transmit emergency information both aurally and visually when conducted under a national, state or local level Emergency Alert System plan. (47 C.F.R. § 73.1250(h).) Other emergency information may be broadcast both visually and aurally or just visually. (Ibid.)

### **b. Closed Captioning**

Closed captioning is a way of displaying the audio content of a video as text on the screen, usually at the bottom. FCC rules for closed captioning ensure that viewers who are deaf and hard of hearing have full access to programming. (See 47 C.F.R. § 79.1.) The duties under the FCC rules attach to video programmers, video programming owners, and video programming distributors. (47 C.F.R. § 79.1(a)(9), (a)(11)-(12).) Although the rules focus on traditional television broadcast stations, they include internet-based streaming services. (47 C.F.R. § 79.4(a)(5), (b).)

One-hundred percent of new, nonexempt English language and Spanish language video programming must be closed-captioned. (47 C.F.R. § 79.1(b)(1).) “New” content means analog video content created starting in 1998 and digital content created starting in mid-2002. (47 C.F.R. § 79.1(a)(5).) “75% of pre-rule, nonexempt English language and Spanish language video programming” that is distributed in any given quarter must be closed captioned. (47 C.F.R. § 79.1(b)(2)(i).)

There are two categories of exemptions from the closed captioning rules: self-implementing and economically burdensome. (See 47 C.F.R. § 79.1(d); [Closed Captioning on Television](#) (Jan. 27, 2021) Federal Communications Com. [as of Dec. 3, 2024].) Self-implementing exemptions include, for example, public service announcements shorter than 10 minutes and not paid for with federal dollars, programming shown from 2 a.m. to 6 a.m., and programming that is primarily textual. (47 C.F.R. § 79.1(d)(4)-(6); [Closed Captioning on Television](#) (Jan. 27, 2021) Federal Communications Com. [as of Dec. 3, 2024].) Economically burdensome captioning includes companies in their first four years of business and instances where captioning would cost more than two percent of gross revenue, for example. (47 C.F.R. § 79.1(d)(9), (d)(11).)

Closed captions must be accurate, synchronous, complete, and properly placed. (47 C.F.R. § 79.1(j)(2).) Captions must match the spoken words in their original language, contain proper spelling, and provide nonverbal information that is not observable, such as the existence of music and sound effects, to the fullest extent possible. (47 C.F.R. § 79.1(j)(2)(i).) Captions must coincide with their corresponding spoken words and sounds to the greatest extent possible and must be displayed on the screen at a speed that can be read by viewers. (47 C.F.R. § 79.1(j)(2)(ii).) To the fullest extent possible, captions must run from the beginning to the end of the program. (47 C.F.R. § 79.1(j)(2)(iii).) Captions must be viewable and not block other important visual content on the

screen, including text and character faces, overlap one another, or run off the edge of the screen. (47 C.F.R. § 79.1(j)(2)(iv).) The FCC also has best practices for arranging closed captioning. (47 C.F.R. § 79.1(k).)

The FCC does not regulate captioning of home videos, DVDs, or video games according to its [website](#).

### **B. Section 508 of the Rehabilitation Act**

Section 508 of the Rehabilitation Act (Section 508) requires all electronic and information technology that is developed, procured, maintained, or used by a federal agency to be accessible to people with disabilities. (29 U.S.C. § 794d.) These include computers, websites, electronic documents, telecommunications equipment, and office machines such as copiers. (See [About the ICT Accessibility 508 Standards and 255 Guidelines](#) U.S. Access Bd. [as of Dec. 3, 2024].) Access available to individuals with disabilities must be comparable to access available to others. (29 U.S.C. § 794d(a)(1)(A).) Standards for Section 508 compliance are developed and maintained by the United States Access Board. (29 U.S.C. § 794d(a)(2).) The Access Board's Rules under Section 508 are posted on its [website](#).

## **II. CALIFORNIA LAW**

### **A. Non-Emergency Telephone Systems**

Under California law, any telephone subscriber who is certified as deaf or severely hard of hearing is entitled to an accessible telecommunications device. This device, such as a Telecommunications Device for the Deaf, a Teletypewriter, or a Video Relay Service must be provided free of charge. (Pub. Util. Code, § 2881.) Organizations that represent people who are deaf or hard of hearing are also eligible for the special telecommunications device. (Ibid.)

California law also requires the establishment of a “dual party relay system,” which is a free service to individuals who are deaf, hard of hearing, or with speech limitations that allows them to communicate with other telephone users who do not have hearing disabilities by way of intercommunication devices. (Pub. Util. Code, § 2881, subd. (b).) This system is designed to make all phases of public telephone service accessible. (Ibid.)

Californians who have difficulty hearing, seeing, moving, speaking, learning, or remembering can benefit from specialized telephone equipment, accessories, and services offered by the California Deaf and Disabled Telecommunication Program, sometimes referred to as California Connect. Such equipment can include amplified phones for the hard of hearing, big-button phones for those with low vision, and cordless phones for individuals with mobility disabilities. For more information regarding telecommunication access for people with disabilities, see the California Public Utilities Commission's [Deaf and Disabled Telecommunication Program](#) for information on the program and [California Connect's website](#) to request equipment.

### **B. Emergency Telephone Services**

In California, any county which provides emergency services is “encouraged” to provide hearing-related teletype equipment at a central location to relay requests for emergency services. (Gov. Code, § 23025.) In addition, all “911” public safety answering points must have a telecommunications device capable of servicing the needs of people with hearing disabilities. (Gov. Code,

§ 53112, subd. (c).) Similarly, under federal law, “essential telephones”—with limited exceptions—must be compatible with hearing aids designed for telephone use. (47 U.S.C. § 610(b).)

### III. COMPLAINTS

The FCC enforces the disability access mandates under the Communications Act of 1934 and the CVAA. (See, e.g., 47 U.S.C. § 225(e), (g).)

People concerned about the accessibility of a product or service may want to contact the equipment manufacturer or service provider with their accessibility concerns. The FCC can provide contact information through the [FCC website](#), by email to [dro@fcc.gov](mailto:dro@fcc.gov), by voice phone at (202) 418-2517 (voice), or by video phone at (844) 432-2275.

According to the FCC’s webpage, regardless of whether one contacts the company, individuals can request assistance from the FCC’s Disability Rights Office (DRO) to resolve an accessibility problem by submitting a “request for dispute assistance.” Such a request can be filed online through the [FCC’s online Consumer Complaint Center](#), by email to [dro@fcc.gov](mailto:dro@fcc.gov), or by letter to:

Federal Communications Commission  
Consumer and Governmental Affairs Bureau  
Disability Rights Office  
45 L Street NE  
Washington, D.C. 20554

If an informal complaint does not resolve a problem within 30 days, a complainant can either ask for an additional 30 days or file an informal complaint about the accessibility problem with the FCC Enforcement Bureau. (See [Take Action: Options for Filing an Accessibility Complaint](#) Federal Communications Commission [as of Dec. 3, 2024].)

A complainant may also file a formal complaint with the FCC. (47 C.F.R. § 6.16.) The [FCC’s webpage](#) has several online options for filing complaints depending on the nature of the complaint.

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For questions or comments about this publication, please contact the California Department of Justice’s Disability Rights Bureau within the Civil Rights Enforcement Section at [DisabilityRights@doj.ca.gov](mailto:DisabilityRights@doj.ca.gov).

For individual complaints and inquiries, please contact the [California Civil Rights Department \(CRD\)](#), formerly known as the Department of Fair Employment and Housing. Please note that the California Department of Justice, unlike CRD, only pursues systemic violations by local governmental entities or companies directly impacting the general public or large groups of individuals. It does not handle individual complaints or inquiries. It also does not represent individuals, provide legal advice, or provide updates about its investigations and/or litigation, even to individuals who provided information about those matters. It also does not handle cases involving isolated violations of law, matters against state-level public entities, or out-of-state conduct.

To report a complaint to the California Department of Justice regarding systemic violations of law by local governmental entities or companies, please contact the Public Inquiry Unit (PIU). PIU staff may not respond to every inquiry, cannot answer legal questions or give legal advice, and cannot act as a personal lawyer for individuals who report a complaint. Complaints may be referred to a more appropriate agency.

For more information about reporting a complaint against a business or company to PIU, visit the [Consumer Complaint webpage](#).

For more information about reporting a complaint against another entity to PIU, visit the [General Comment, Question or Complaint webpage](#).